

Meeting of 1998-4-14 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
APRIL 14, 1998 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:
Presiding Gil Schumpert, City Manager
 Felix Cruz, City Attorney
 Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. with Invocation by Captain Alan Hill, Salvation Army Citadel, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by State law.

ROLL CALL

PRESENT: Jody Maples, Ward One
 Richard Williams, Ward Two
 Jeff Sadler, Ward Three
 John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Charles Beller, Ward Six
 Carol Green, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None.

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO LINDA SUE HINES

Donna Richey, Mayors Commission on the Status of Women, introduced Linda Sue Hines as Citizen of the Month and commended her volunteer efforts with the Fort Sill Rape Crisis Team, Training for the Lawton-Fort Sill Wings of Eagles Program helping sixth graders to be drug free, gang free and educated; member of Drug Busters, Executive Director of Teen Pregnancy Prevention grant program, Chairperson for the Citizens Task Force for a Responsible and Drug Free Community. Hines is an advocate for children and healthy families, and participates in the Lawton Public Schools Parent University training, and serves as Southwest Regional coordinator for critical incident stress management team, which is a volunteer program to mitigate the effects of trauma. Hines has completed requirements to become a national trainer for the critical incident stress debriefing.

Mayor Marley presented citations from J.C. Watts, House of Representatives; the State of Oklahoma; and the City of Lawton, and congratulated Ms. Hines on her volunteer efforts to help others in the community.

PRESENTATION OF QUARTERLY REPORT FROM LAWTON HUMAN RIGHTS & RELATIONS COMMISSION

Don Kesler, Chairperson, Lawton Human Rights & Relations Commission, presented the quarterly report. He said a year ago the Commission worked with Memorial Hospital, Telos and the National Multiple Sclerosis Society on a disabilities in the work place symposium. He presented a video tape to Mayor Marley of this event.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF MARCH 10 AND 24, 1998.

MOVED by Shanklin, SECOND by Green, for approval of the Minutes. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

BUSINESS ITEMS:

1. Consider adopting an ordinance amending Section 22-144, Chapter 22, Lawton City Code, 1995, establishing

and setting procedures regarding fees for disposal of construction material from structures condemned by Council resolution and demolished by the owner, and declaring an emergency. Exhibits: Ordinance No. 98-9.

MOVED by Williams, SECOND by Warren, to approve Ordinance No. 98-9, waive reading of the ordinance, reading only the title, and declare an emergency.

(Title read by Clerk) ORDINANCE NO. 98-9

AN ORDINANCE RELATING TO REFUSE, AMENDING SECTION 22-144, LAWTON CITY CODE, 1995, PROVIDING FOR DISPOSAL AND FEES FOR DISPOSAL AT THE CITY'S LANDFILL OF CONSTRUCTION AND DEMOLITION MATERIALS FROM DEMOLITION OF DILAPIDATED STRUCTURES CONDEMNED BY THE CITY COUNCIL, PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY.

VOTE ON MOTION: AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

Shanklin asked what control there would be to determine if debris was being dumped from a structure which had been condemned by Council. Schumpert said the permit would indicate the property was under Council resolution.

2. Consider adopting a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, setting fees for disposal of material from structures condemned by Council resolution and demolished by the owner, and establishing an effective date. Exhibits: Resolution No. 98-49.

MOVED by Williams, SECOND by Purcell, to adopt Resolution No. 98-49.

Jerry Ihler, Public Works/Engineering Director, noted a correction on the third page of the resolution regarding the \$10.70 fee. He proposed for residential, unsecured loads, the minimum be charged, which is \$6.10. Cruz said \$10.70 should be amended to \$6.10 and Ihler agreed. Williams and Purcell agreed to the amendment as stated. Shanklin said a committee discussed the \$28 per ton being charged in Wichita Falls and asked if that was included here. Ihler said an item is being prepared for the next Council meeting.

(Title only) RESOLUTION NO. 98-49

A RESOLUTION AMENDING APPENDIX A, SCHEDULE OF FEES AND CHARGES, LAWTON CITY CODE, 1995, ESTABLISHING AND SETTING FEES FOR DISPOSAL OF CONSTRUCTION AND DEMOLITION MATERIALS FROM BUILDINGS DEMOLISHED FOLLOWING CONDEMNATION PROCEEDINGS OF DILAPIDATED STRUCTURES BY THE CITY COUNCIL, AND ESTABLISHING AN EFFECTIVE DATE.

3. Consider adopting an ordinance amending Sections 19-302 and 19-401, Lawton City Code, 1995, excepting retirees of the City and their spouses from the City's fishing and hunting permit requirements. Exhibits: Ordinance No. 98-10.

MOVED by Beller, SECOND by Green, to approve Ordinance No. 98-10, waive reading of the ordinance, read the title only.

(Title read by Clerk) ORDINANCE NO. 98-10

AN ORDINANCE RELATING TO RECREATION, AMENDING SECTIONS 19-302 AND 19-401, LAWTON CITY CODE, 1995, EXCEPTING RETIREES OF THE CITY OF LAWTON AND THEIR SPOUSES FROM THE CITY'S FISHING AND HUNTING PERMIT REQUIREMENTS TO FISH IN CITY LAKES AND HUNT ON CITY'S PROPERTY AND PROVIDING FOR SEVERABILITY.

VOTE ON MOTION: AYE: Shanklin, Beller, Green, Maples, Williams, Purcell. NAY: Warren, Sadler. MOTION CARRIED.

4. Consider approving an amendment to an agreement between the City and Marie Detty Youth Services Center to continue development, implementation and maintenance of a Community Intervention Center in Lawton. Exhibits: Second Amendment to Agreement.

Schumpert said this item will get the contract with the Office of Juvenile Affairs aligned with the budget, and the amendment will carry it into the next fiscal year. It will also allow the carryover of funds which have not been expended. Plans and specifications have been received for the Center, which will be located directly behind the current Marie Detty Center; a foundation only permit is expected to be issued by the end of the week. He gave statistics involved in operation of the center to date and noted Council would receive a report in this regard.

MOVED by Maples, SECOND by Sadler, to approve the second amendment and authorize the Mayor and City Clerk to execute same. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

5. Consider an amendment to a contract between the City of Lawton (Lender) and Pamela T. Miller Jefferson A/K/A Pamela T. Miller (Borrower) allowing attachment of a third mortgage lien. Exhibits: Letter of Request.

Mayor Marley did not read the item title and stated Item 5 is pulled because the requestor cannot be present and it is critical that she be heard with this type of mortgage agreement. Mayor Marley said there had been discussion regarding pulling items that are on the printed agenda, and the rule had been that items can be pulled if they are written on the agenda, however, if it is announced by the presiding officer as an item, then it cannot be pulled. He said if the next item is read into the record, that item must be considered and a vote taken; however, if it is pulled prior to reading it into the record, it does not have to be acted on. Williams asked if an item could be tabled after the title had been read into the record and Mayor Marley said it could be, but that would be a vote and that some action must be taken if it is read into the record.

6. Discuss requesting an independent review and evaluation of the zoning rules and regulations. Exhibits: None.

Purcell said he requested this item, which had been discussed before, and that he had been trying to get something done for about two years. He said his concern was the Council frequently being asked to rezone one lot, and in many instances, it includes an amendment to the 2020 Land Use Plan. Purcell said he felt there should be zoning regulations that go out for five or ten years, and once it is set up, for instance, if we go along major arterials, we should decide once and for all that every major arterial is going to be commercial, so then if someone buys a house on a major arterial in the next five years, it is known to them that it is a commercial zone and they can buy it because they want to live in it for less than five years or they may want to sell it as a commercial property. Purcell said it seems to be doing a disservice to the citizens when someone buys a residential lot and a house and in two or three years, there is rezoning on either side of them, lot by lot.

Purcell said he did not know if there were too many zoning codes, C-1 to C-5, or if it should be smaller or larger, and the same thing with residential, and suggested contacting a university that specializes in planning. He said there is nothing wrong with our staff and they certainly know what to do and are capable and produced the 2020 Land Use Plan, but it would not be bad to have someone outside look at this at a fairly inexpensive price. Purcell said he had contacted a member of the Board of Regents, and he had contacted some people, and staff should be asked, if Council agrees, to get on with this. He said he visited with the City Planner or Community Development Director in Stillwater, and they are doing something similar, although much more extensive, because they went to a company and it will cost them a quarter million dollars. Purcell said he was not suggesting that, but would suggest using the expertise in a university, in coordination with our staff. Purcell asked that this be discussed and if agreeable, ask the City Manager to move on with this.

Beller said he concurred with Purcell. He said as we drive the major arterials, it becomes more evident every day that these streets should be commercial. Beller said people talk about purchasing a home and then are surprised when someone wants to commercialize a property. He said it is obvious that if there is a home on Cache Road, Gore Boulevard, Sheridan, 38th, or 11th, that it is not conducive to raising children in a residential area. Beller said the spot zoning affect has deteriorated properties along Sheridan Road north of Cache Road; it is evident there is no pride in some of the homes and many are rental properties because you cannot get someone to buy a home on one of these major arteries. He said he supported Purcell's suggestion and felt someone could be brought in, such as was done with the lakes where OSU had that type of service available, and probably OU also does and the seniors are usually anxious to perform something of this nature.

Shanklin said he did not care who gave a 10 or 20 year plan, it is just a plan, it is not set in concrete, and Council will not disenfranchise someone who is ready to develop his corner or 20 acres just because it is designated residential; if the owner wants it commercial, you are not going to be able to keep him from doing that. He said the homes up and down Gore are 50 years old, on Cache Road the homes are 40 years old; 38th Street has homes, and homes on Sheridan Road were built in 1947. Shanklin said the areas would go commercial sooner or later, but that he could not see spending any money with the staff we have now, and that rezonings must happen and will continue to happen in the future. He said you cannot designate to future members that an area is residential and across the street there is a C-5, you have to put something down and we did. Shanklin said the City bought a very expensive ladder truck because it was shown in a plan, whether it was needed or not at that particular time. He said he did not see how this proposal would be helpful.

Purcell said he agreed with Shanklin's comments and that areas should be set up that they will go commercial and it does not stop it in the future. He said he was not suggesting spending a lot of money, but to go to a university, so he agreed with Shanklin's comments and hoped he would support the item because he was trying to accomplish what Shanklin was saying.

Williams said the City has the 2020 Land Use Plan and asked if it is reviewed about every five years, and if we are about two years into a five year plan. He said maybe five years is too long to wait to look at some of these items, and some major arteries were identified that should very well be commercial. Williams said LMAPC and Council struggle to bring themselves to the fact of saying something should be commercial. He said Purcell mentioned that the staff was more than capable of doing this and perhaps instead of waiting for a five year period, there should be a shorter period for review, or maybe staff should go in, with Council direction, and revise the 2020 Land Use Plan. Williams said he had no problem with outsiders coming in to look for fresh approaches and felt Lawton had one of

the most competent staffs around, but it was something to think about.

Beller said he felt Bigham could answer more questions than anyone and that he should be the one to request the direction the Council wants to travel because he has been with the 2020 plan for years and knows the city and what we are trying to accomplish. He said the fact that the 2020 Land Use Plan says it should be commercial does not mean that every property out there has to apply for rezoning, and that is the big misconception we have to straighten out in the beginning, the fact that it is designated. Beller said he did not buy the theory that there can be too much commercial property; the fact that there are 20 acres on the east side of town does not mean someone may not want to locate on the west side, so just because there are X number of commercial acres does not mean we cannot do more. He said he felt this was a good direction to start.

Shanklin said at the 60th and East Gore intersection, for example, some of it has already been designated in the 2020 Land Use Plan as to what will be residential and what will be commercial. He said he may have the residential but want it to be commercial and an owner would not be stopped from doing that but something has to be put down; whoever comes in does not have a crystal ball and would likely do what staff has done. Shanklin said if an overview can be done free of charge, he would have no problem.

Williams said he thought the community would grow quite a bit in the next couple of years, and probably it is staffs best estimate to include residential. He said it is just an estimate, a proposal, and a plan, which can all be changed.

Beller said he felt Council should ask the City Manager to work with Bigham to bring back recommendations or suggestions, if this is the consensus of the Council. Williams said some universities may have departments that would like to do this as a research project. Purcell said OU has a planning department where they teach a course on city planning and their graduate students might be willing to take it on as a project; it is a good class project and it does not have to be done in six months, but just a start and a fresh look.

Maples said you get what you pay for and the last study done on the lakes and land area was not a good study. She said that could be the case here using graduate students, versus a regular study, which would cost more but would be of a better quality. Williams said the lakes study only used a questionnaire and Maples said that method could be picked for this also and it did not work well. Williams said it would not be a question of polling people.

Beller recommended asking the City Manager and Bigham to bring back possible solutions to the problem as Council sees it. Shanklin asked what is the problem. Beller said that those arterial streets are still zoned residential and that he felt it would be a matter of redoing the Land Use Plan to show those strips as commercial. Maples said an agency is not required to come back with that finding and that Bigham could review it and respond. Beller agreed and said Bigham is highly qualified to do that in his opinion.

Beller said he would make a motion to direct the City Manager and Bigham to bring back a comprehensive rezoning plan for the 2020 Land Use Plan. Shanklin said we have one of those. Beller said we want to change what we have, or that appears to be the consensus of Council. Shanklin said he understood Purcell to say we want to stop having spot zoning and rezoning at every other Council meeting, and he was saying that was not going to happen. Beller said he felt this would be a good way to approach the problem.

Schumpert said for clarification, we started with bringing back an approach to determine how we would look at zoning and, if he understood, the motion now was to bring back a comprehensive zoning change, or say here are the various ways you could accomplish a review of current zoning rules and regulations, and these people will do it, or we will do an RFP. Beller said no, we want to look at the Land Use Plan, or at least that is the feeling of those who have expressed their opinions, we want to see the Land Use Plan say that Cache Road is a commercial designated area, as well as Sheridan Road and Gore Boulevard, and that does not mean that everyone who owns property along those streets has to come in to request a rezoning, but it just says if that is the best use, they do not have to go through a routine to accomplish it if the 2020 says the best use for the property is commercial.

Schumpert said he understood Beller's comments but felt they did not coincide with Purcell's comments. Purcell said he went one step further regarding the zoning classifications; there is commercial, C-1 to C-5; there may be a better way and thousands of cities have gone through this before. He said maybe we only need C-1 to C-3 or maybe we need C-1 to C-10; maybe we do not need R-1 to R-4, maybe we need R-1 to R-20, we do not know, we are stuck with the same things we have always had. Purcell said he was suggesting an outside source; certainly Bigham is capable of doing it and this is no reflection on the Planning Department; it is just an outside source that says here is the way 200 other cities have done this in the last five years and you might want to pick up something from them.

Schumpert said he was trying to understand and get the motion between the two to agree, and one member is saying we should contact OU and OSU or study groups and say here is what we are trying to do and ask if they are interested in doing it and if they are, will they do it as a project, or how much will it cost; but Beller is saying we want you to bring back a change to the Land Use Plan which makes certain areas commercial. Beller said he felt ultimately that would be the goal of the study.

Warren suggested talking to OU and OSU, hear those ideas and then say here is what we need to do with our staff, or that we cannot do what they suggest, or hire someone, or whatever is needed after that, but some input should be received from someone else to compare. Schumpert said he wanted to be sure he understood the clarification. Green requested that a clear motion be offered and seconded.

MOVED by Purcell, SECOND by Green, to request an independent review and evaluation of the zoning rules and regulations.

Beller asked if this would accomplish the ultimate goal. Schumpert said it may not end up with all the arterials being rezoned commercial. Mayor Marley said if you go through now and say all those streets will be commercial and someone sells a house, the Council would have nothing to say about what gets built there and there would be an outcry without a study being done. Mayor Marley said there are half a dozen houses on Cache Road from 34th Street to 38th Street, and if you pass something like that, someone in the middle of that could sell their house and a commercial enterprise could take it over and put commercial between two residences without coming to Council and that was his concern. Beller said that was what they were trying to accomplish. Williams asked if we are attempting to get input whereby we can change the 2020 Land Use Plan, although not rezone things. Beller said it would not rezone things but the plan would say this is the best use for the particular property. Purcell said it is to redo the 2020 Land Use Plan and look at zoning overall, not to rezone a particular area, but to decide whether we need five C categories or ten or two, and the whole philosophy of zoning, and to gain from experience of other cities. Shanklin said staff could ask Wichita Falls what zoning categories they have. Purcell said OU has a planning department that teaches the planners who go to the cities and they would know, in theory, what they are doing. Purcell said he was not suggesting buying off on what they say blindly, but to get an outside look. Shanklin asked that the motion be read and this was done by the Clerk (as shown above).

VOTE ON MOTION: AYE: Green, Warren, Williams, Sadler, Purcell, Shanklin, Beller. NAY: Maples. MOTION CARRIED.

7. Set up Special Youth Ballfield Development Account. Exhibits: None.

Schumpert said when funds are received from insurance reimbursement or other sources and not expended in a certain period of time, they are rolled into the general fund. He said staff anticipated repairing the area at 17th and G and went through extended negotiations with the insurance company to convince them doing what they suggested would cost significantly more than the City's suggestion, an agreement was reached for the City to receive the funding as opposed to the insurance company replacing the damaged items.

Schumpert said indications are the City will not receive another long term lease from the county for the 17th and G property, so the current plan is to use it as a daylight only ball complex and place the money from the insurance settlement into an account which can be used for east side park development for ballfields as shown in the master plan. He said he felt this would be a better use than redoing 17th and G and then in a year or two, taking it back out, and that is the sole purpose of this action.

MOVED by Williams, SECOND by Warren, to set up a special account for the youth baseball development with proceeds from insurance claims not used on restoration of Ahlschlager Park. AYE: Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

ADDENDUM:

1. Consider approving a letter requesting support on the annexation of Fort Sill and authorize the Mayor to sign the letter. Exhibits: Proposed letter.

Mayor Marley said this was placed on the agenda because the Governor was supposed to sign the state law today which would permit this. He said that did not happen for various reasons, one being the Governor's office received the bill just yesterday and his attorneys are reviewing it prior to his signing. Mayor Marley said once the bill is signed by the Governor, there is a requirement for the City of Lawton to go to the Commander at Fort Sill and ask him to consider annexation. He said the items are in place to cover that and he requested authorization to sign a letter to Fort Sill after the Governor has signed the law permitting that to occur.

MOVED by Shanklin, SECOND by Green, to authorize the Mayor to sign the necessary letters in this regard.

Mayor Marley said the Army requirements, not Lawton's or the States, are that when the General sends a letter forward recommending this occur, he has to have some support from various other entities within the community, not only the City of Lawton. He said it has been determined by the lawyers at Fort Sill that a letter from the County Commissioners would suffice for that and it would not need to go to all the various towns, so he would also like to be able to send that letter requesting the Commissioners approval of such an action.

Maples asked if the Secretary of the Army had been contacted. Mayor Marley said he was in Washington in early

March and the Assistant Secretary of the Army for Installations indicated the Army's position is if the Commander of the installation requests it, they would approve it, and Fort Sills Commander said once the bill is signed by the Governor, he would sign the letter, so everything is in place and it is just a matter of getting the bill signed and it would become a reality. He said the only opposition in the process was from the Norman, which was obvious.

VOTE ON MOTION: AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

2. Hold a discussion regarding the Sentinel Program. Exhibits: None.

Beller said he, Shanklin, and Purcell are shown on the item and stated they were trying to get information on the status of the Sentinel Program. He said his concern was in regard to the policy on appeals and how much information a council member should be entitled to on matters such as this. Beller said he visited with LT Mathis, who heads up the Sentinel Program, and he answered some of his questions. He said he also visited with Schumpert and was satisfied that his questions were answered. Beller said he was concerned that a volunteer was dismissed, and after having found out the particulars, he had a different opinion.

Shanklin questioned how a volunteer would fit into an appeal process. Schumpert said there is a manual of procedures for the operation of the Sentinel Program, which contains an appeal process regarding suspension or termination. Shanklin asked if there was an unwritten rule that City staff or anyone related to the City cannot talk to a council member for fear of reprisal. Schumpert said ever since he had been the City Manager the policy had been that any individual may speak to any council member and that he had encouraged staff, particularly the directors who work directly under him, to give him feedback saying they talked to a member about a subject so he would have knowledge. Schumpert said that had been his policy since the time he began as City Manager, and even as Interim Manager, that the Council has the ability to talk to any employee about any matter. Schumpert said it is clear in the Charter that Council cannot give direction to employees nor cause them to take action and that he was not aware of any instance where that had occurred. Schumpert said it had been his understanding and perception that there was a very good working relationship between the Council and the department heads and staff, and members visit City Hall and talk to directors and staff and go to the Public Works yard and other areas and that he was not aware of any situation where an individual had been disciplined, admonished or any action had been taken against them for talking to a member of the City Council. Schumpert said if they are asked a question, they are to tell the truth, but at the same time, they are not to surmise or play "I think" games and if they do not know the answer, that should be their response. Schumpert said if they start dictating policy or indicating what we ought to do, then he would have a problem with that because it should be discussed when someone else starts setting policy, but as far as staff talking to council members, he found it very helpful that a member does have the ability to speak with staff or directors as opposed to routing every question through the managers office, which would be bureaucratic and a gross waste of time. He said he was not aware of any instance where anyone had even been talked to harshly about talking to a council member.

Beller said this is what his concern was primarily; the information as he understood it was that the dismissal was made because someone had talked with a council person. He said he talked with a few officers about it trying to gain information and several of them reminded him of the chain of command, and he was sure that was a necessary part of the department, and if a person from the department talks to a member, is he violating the chain of command policy. Schumpert said the short answer is no, we expect him to tell the chain of command, however, that he has in fact talked to a council member and what the subject of the conversation was. Schumpert said the individual was not disciplined nor was any action taken against that individual for talking to a council member or members, nor was he disciplined for having a meeting with a council member or members; he was disciplined for an entirely different reason than the fact that he talked to a council member or members.

Purcell said we are splitting hairs now; when someone talks to a council member and then is called in and asked who was at the meeting with the council member, that is the issue. He said he did not understand why it made any difference who was at the meeting with the council member and the guy was trying to protect others, because of this perceived problem, whether it is real or not, but he would not say and that may have been wrong. Purcell said he objected to the question even being asked. He said he came in the next day, after he had the meeting, and mentioned it to the city manager, who went out and checked on something. Purcell said this thing has gotten blown out of proportion where someone was trying to do something good, and the net effect is he got something for the Sentinel Program, but he lost and got fired from a volunteer position. He said if the question was not asked, the person probably would not have lied and therefore probably would not have been dismissed.

Maples said that question should never have been asked, and that is the thing that she mentioned long ago and the City Manager is wrong when he says it has never been brought to his attention about retaliation. She said weeks ago when Council was going over budgeting for all the cars being purchased, we asked on this council floor, provide us a list of all the vehicles that have been purchased in every department, if it was out of the rolling stock budget or if it was out of the regular department budget; the City Manager provided that list but an officer got chewed out because council got a copy of that and it was assumed that someone gave her a copy of it, and she discussed that with Schumpert so he is wrong when he says that is not retaliation. Mayor Marley said this is about

the Sentinel Program. Maples said the agenda item says unwritten policies and practices relating to the Sentinel Program and other matters and it is all related to the same thing and there is retaliation. Mayor Marley said Maples was out of order and she disagreed.

Shanklin said there is a police policy then that they cannot talk to a council member. Schumpert said it is not the police policy that they cannot talk to a council member; they can in fact talk to a council member. Shanklin said he thought it was said if he did not follow the chain of command. Schumpert said we expect him to inform the chain of command that he has in fact talked to a council member and what the subject was. Shanklin said council was bombarded by the police department when they did not have a contract and that seemed to be all right and that he did not know if they had to go back through the master officer, then lieutenant, then the captain and the major and the lieutenant colonel then the chief maybe. He said he found it a double standard that they can do that then but when he sees them at the football game and has known them for 30 years, they say "Bob, I can't be seen talking to you". Shanklin said that did not make him have a very good feeling for somebody somewhere and if that is in the policy somewhere it should be revised by council and staff.

Bill Adamson, Police Chief, said there is no retaliation that takes place in the Lawton Police Department and he was tired of being accused of that. He said he runs the Lawton Police Department and that it is run above board. Maples indicated Adamson was looking directly at her and that his remarks should be directed toward all members; Mayor Marley declared Maples out of order.

Adamson said he was not afraid of officers or Sentinels talking to council members; they are not restricted from talking to council members. He said he disagreed respectfully that we are splitting hairs and that there are differences between violations of one sort or of a more major sort; there are differences in violations. He said the action taken against the Sentinel was his decision, he would accept full responsibility for it and would do the same thing tomorrow. Adamson said if anyone on the council has been told that the person was relieved of his position because he talked to a council member then someone has been deceived. He said he had been asked by one sitting council person what happened and he was open to discuss it and preferred not to talk openly about this specific action but would be glad to talk to any council person about it. He said he tried to have an open department and would like to keep it that way and was trying to achieve that. Adamson said there are certain standards and they will be upheld in the Lawton Police Department and that is just the way it is going to be. He said council has the ability to investigate and since this seems to be such a major issue, council could open an investigation into this matter and he had nothing to hide and they could find out who had misled the council if someone had done so.

Shanklin said he would like to do that and to include some other areas, especially when he had been told he did not see what he had seen, although there were five witnesses. He said he agreed to an investigation.

Green said she was confused also regarding the language about the Sentinel program, or other matters, although it states at the top to hold a discussion regarding the Sentinel program. Cruz said the agenda as posted is what counts and what was posted relates to the Sentinel program and it must be restricted to the Sentinel program. Green said she had her hand up because she thought it related to other matters also. Shanklin said the background states other matters and that he included several things when it was written and Council can discuss what it wants to with regard to other matters. Mayor Marley said that was not the ruling of the attorney. Shanklin suggested Council proceed to the next item.

Mayor Marley asked if there was further discussion of the Sentinel Program and Shanklin asked if we want the program to continue, and if so, will they be supported. Williams said they will present a budget for the Sentinel program. Schumpert said he was requested by council members to request from the Sentinels a budget to be included in the budget discussion process and that he has that budget and that it will be presented and it was a deliberate decision not to distribute the budget because it was not the specific issue at the time; a copy of that budget can be distributed now if desired, but it is intended to be distributed with the budget sessions beginning May 7. Schumpert said he has the budget request in his office and it is considered a work product and not releasable to the media but if council members want a copy, they can receive one.

Beller suggested he, Shanklin and Purcell be able to visit with the Chief in this matter. Adamson said he would be more than happy to talk with them at any time. Mayor Marley asked if the City Manager should be directed to set up the meeting. Beller said yes, please. Adamson said speaking of openness, and officers talking to council people, there is a ride along policy in the Lawton Police Department and council members are more than welcome to ride with officers and they can talk to the watch commander, fill out a form, and ride any time they want to. Adamson said Mr. Smith, who is about to come on the council, inquired about that the other day and he explained that process to him. Adamson said if they are trying to keep officers away from council members, that would not be a very effective policy.

SECOND ADDENDUM:

1. Discuss and take appropriate action to place a stop sign on an emergency basis on the Northwest corner of Flower Mound Road and Bishop Road. Exhibits: None.

Purcell said he requested the item and had received a phone call from the principal at Flower Mound School regarding safety concerns. He said the road is bad and is getting smaller and smaller as the sides break off by the school; there are 25 mph signs on Flower Mound Road and stop signs on Bishop Road going east and west. This will come before the Traffic Commission later this week and will be returned to Council with their recommendation probably at the next meeting. The county commissioner was asked to put up a sign on the southeast corner, which is in the county. Purcell said he felt one was needed on the northwest corner on an emergency basis and that he would hate to see cars coming over the hill driving north and others going south moving to the middle of the road, and have a head on collision because there is a hill which does not allow good visibility. He said he could not seem to get it done when he and Beller asked for something, so he brought it to the Council.

MOVED by Purcell, SECOND by Shanklin, to approve and direct that a stop sign be placed on that corner on an emergency basis and then follow the normal procedure of going through the Traffic Commission.

Mayor Marley asked if this should be done in conjunction and coordination with the county so it would be a four way stop. Purcell agreed it should be coordinated with Commissioner Mansel, although he had not spoken with him, but understood he would be doing this also.

VOTE ON MOTION: AYE: Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples. NAY: None. MOTION CARRIED.

2. Discuss the areas of Code Enforcement regarding issuance of tickets to homeowners without warnings or time to correct violations and with regard to enforcement of dilapidated structures. Exhibits: None.

Shanklin said he requested the item. He said he had asked Council twice previously if it meant for the inspectors to be able to give a ticket on the first visit to someones property, and evidently it was felt that it would be appropriate. Shanklin said he and Williams went to Municipal Court and found that 150 tickets had been given out by code enforcement. He said in one instance he knew for a fact that the owner had material under his carport and did not know any better and agreed to pay a fine and is paying it out, and there are others. Shanklin said he did not think Tucker agreed it was good business to seek out 150 to 200 citizens without giving them time to abate a problem. He said when they knocked on some doors, there was no answer so the inspectors went on and the feeling was given that if others would not have went to the door, they would not have gotten a ticket.

Shanklin said on the demolitions, he asked inspectors to look at a property and apparently it did not meet the demolition code and the owner was not required to bring it to code. He asked that Tucker explain what "code" means, such as whether the plumbing, gas and electrical are repaired but the eaves can be rotted out or a roof needed. He said that was not his intent when the ordinance was adopted; he intended that the windows or window panes would be replaced, and it did not have to be elaborate, but it had to be liveable.

Shanklin read from an article in a Dallas newspaper stating "the city council has given the code enforcement division funds for the largest staff and to buy equipment, but that hasnt resulted in any improved performance; many employees and supervisors dont follow policy; it is not clear that they know the policy. The code enforcement division has gone down hill at a time when the Dallas Police Department has identified deteriorating neighborhoods as a priority cause for crime." Shanklin said a house next to one of his properties had the door kicked in for two months and it has been boarded up for 15 years, yet we have not come close to it and that he had turned it in. He said he received a list of locations that were done but it seemed we are not getting the bang for our buck and he asked Tucker to respond.

Dan Tucker, Code Administration Director, said on the procedure for issuing tickets, he received guidance that when a violation was encountered, a citation would be written at that time to whoever was in violation. He said when there is a violation on a property and no one is home, a notice is left that it must be corrected in ten days. Shanklin asked Tucker if he would give a person a ticket if he answered the door, and if the neighbor was not home, he got ten days, and if that is what Tucker is saying happens. Tucker said yes, and if no one is there, he does not have anyone to give a ticket to. Tucker said if it is vacant, we post it as the state law calls and at the end of the ten days, if no action has been taken, we then file charges in Municipal Court and proceed with the mowing or cleaning or whatever else is necessary. Tucker said if a person is given a ticket and cleans the property within ten days, we do not send anyone out to mow or clean up; if it is not in compliance, then we do send someone out. Shanklin asked if they still receive a ticket and Tucker said yes, the ticket does not get them out of having to clean up their mess. Shanklin asked if he answered his door, he would get a ticket, but the neighbor who is not home gets ten days and Tucker said yes, he gets a notice that it has to be corrected. Shanklin asked Tucker if he felt that was fair. Tucker said no, he felt they should have some latitude because they run into things such as a persons aunt just died and they are on their way to Georgia and can they wait until they return; Tucker said he did not have the ability to say yes. Tucker said some latitude should be given to the inspector, and that is not to abuse the person who answers the door, but to give them an opportunity to comply and there should be some ability there to make that judgment.

Shanklin asked Tucker what "bringing to code" meant to him. Tucker said it is a phrase used a lot and it is misquoted a lot; when I say on an existing structure that you have to bring that structure to code, that does not mean that you have to bring it to where it is built to 1998 standards. Tucker said the Existing Structures Code was adopted, which is the requirement that all windows must be repaired, closed, and city code allows that they be boarded up also if the windows are not fixed. Shanklin asked if the codes are in conflict and Tucker said no. Tucker said the property owner has the option to replace the glazing in the window or to cover it with a piece of plywood and paint the plywood to match the house.

Shanklin said he thought the ordinance that he and Tucker worked on where structures that did not have utilities to them, the owner had to get a demolition or remodel permit to bring it to code, which meant to him to a point where it could be rented or sold or made liveable; if you cannot live in it, we still have a structure that is taking away from the value of the surrounding property. He said he thought they were trying to reach the point to have structures where people could live in them or tear them down. Tucker said the code that was passed said if it was vacant, not occupied, that we would inspect it and determine if it was habitable; in the determination as to whether or not it is habitable, we did not address cosmetic items; if there was structural or foundation erosion or it did not have plumbing or electric, that would make it not habitable and at that point we would bring it to Council and the owner would be given the chance of making it habitable or to raze and remove it.

Shanklin asked if inspectors had discretion in a situation where a structure, previously apartments, will be used for storage to get away from bringing it to code. Tucker said if it is an accessory use, which is common in the older part of town where garages were converted to apartments then to convert it back to a garage or accessory building, but it could not be done for commercial storage, then it would be acceptable. Shanklin asked if the fascia and eaves are rotted off and the roof is completely shot, will we allow that to remain. Tucker said no, it has to be maintained in good condition, and if we are talking about materials rotting and deteriorating, not just needing a coat of paint, because whatever standard we apply to that, it was our existing structures code and not a vacant structures code, because that then puts us in the position if we are talking about fascia needing repair of going to occupied houses and telling them you have to paint or repair fascia. Shanklin said he did not understand. Tucker said we have an existing structures code and it does not differentiate between a vacant or occupied property.

Shanklin asked if properties had to be brought to a liveable condition and Tucker said yes, it has to be habitable. Shanklin asked if structures which are boarded up are in a different area altogether and Tucker said yes. Shanklin said the whole idea was to get rid of the buildings that have been boarded up and such structures can be involved in gang activities.

Williams said a young man he works with received a ticket because the inspector saw some bamboo cuttings beside his house that he had not disposed of properly, and there was not a large amount of cuttings, but he got a ticket. He said he researched the matter and believed the ordinance stated the code official may cite the homeowner, which to him indicated an allowance of judgment. Tucker said this is the third time this has come up, and the code states it is a ticketable offense, but the Council had stated that he would issue the ticket and that he was doing that.

Maples said this started last summer as a result of the weed abatement because so many calls were being received complaining and Council did direct the inspectors to get the job done even if they have to ticket people the first time. She said she thought it had now spread to other areas and was no longer just a matter of the high weeds and grass, which was where Council had asked the attention be placed due to the danger involved with dry grass.

Tucker said if a ticket is issued and the person has taken care of the problem and been cooperative, they relay that to the court. Williams said they went to the court and found that the person had received a \$217 fine, so it is not a \$35 or \$67 speeding ticket. Schumpert said Tucker was operating under fairly direct guidance from him in this arena because on two specific occasions, Council had stated that tickets would be issued on the first offense and the inspectors does not have the ability to do otherwise.

Purcell agreed that was Council direction and that it dealt with high weeds and grass at the time due to the fire danger, the snakes and rats, when grass was four feet tall. Shanklin said the tickets were issued in the winter. Purcell said he understood and the direction was given last summer when there was a major problem with grass and weeds. Purcell suggested new guidance be given to the City Manager that what we are really talking about is grass and weeds, and not the other violations, and the inspectors need some discretion. Green said grass and weeds will be a problem again in another 30 days. Shanklin said everyone is not on the same sheet of music and to give one person who answered the door a ticket, and the neighbor is not given one, and giving a person a ticket for having some lumber stacked under his carport, that individual may not understand that. Shanklin suggested we stop all immediate tickets, and first give them ten days to clean it up. Beller agreed. Warren said the weeds next door to his house are 12-15" tall and that someone should be issued a ticket. Shanklin said the person with the lumber did not know that was a violation of the ordinance, and it may not in fact be a violation because it was material he was planning to use and it was stacked under his carport. Warren said the concern was the high grass and weeds. Shanklin said high grass and weeds was under a different ordinance.

Cruz said use of the words shall or may are included and the inspectors should follow that, and the discussion at this point is whether to give a warning or not, and that should be left to the discretion of the inspectors. Maples asked it could be a separation between code enforcement items and high weeds and grass items. Cruz said the codes are separated; there are dilapidated structures in one section and weed abatement in another, and they are separated.

Tucker said there is a two page list of nuisance violations, and weeds and grass is one on the list. He said he had no problem separating it out, but there has to be some basis for him to select which nuisance. Cruz said for the purpose of knowing, understanding and enforcing the code, they are separated and there are separate sections on dilapidated structures, a section or division on weed abatement, and another on nuisances and they are not so inter-related that it cannot be separated.

Maples said she knew Council had directed to get the properties cited for tall weeds and grass in the summer time when there are safety and fire hazard issues but did not see how it would be too difficult to exercise some common sense in enforcing that particular nuisance on those particular items because of the fire and safety hazards and then work with people on the others. Tucker agreed.

Mayor Marley asked if there was a motion on the floor to cease ticketing. Shanklin said people should be given an opportunity to abate the problem when it is brought to their attention. Beller said the direction to the City Manager should be to not ticket on the first offense unless they see a reason to do so, if it is a flagrant violation, it should be ticketed. Beller said he received a horror story also from an elderly man on F Avenue who receives a \$400 a month pension check and received a \$200 ticket.

Purcell asked Tucker if someone finds weeds and grass two feet tall in the front yard, using discretion, would a ticket be issued. Tucker said if it is two feet tall in the front or immediate back yard, a ticket would likely be issued; if it is on the other side of the fence, a reasonable response may be to allow ten days to abate. Tucker said if they return after ten days and it is not abated, they would issue a ticket. Purcell said the Council direction dealt with grass and weeds and suggested inspectors use discretion. Shanklin asked if tickets could be issued for high weeds and grass under state law, without giving a person thirty days or the regular process. Cruz said tickets can be issued in addition to the regular abatement process. Maples suggested staff had received adequate direction to use discretion. Shanklin said those who had received tickets were not properties where complaints had been received. Warren said the house next door to him is vacant, a rent house, and the owner has had three or four weeks to realize the grass is too tall, and that he did not feel the person should be given another ten days before being given a ticket. Cruz said the person should be given the administrative order to abate it and they have a right to appeal that, but once the administrative order is given, then that person has ten days to abate and if he does not, the City clears it and charges the owner. Warren said Shanklin was suggesting giving every violator ten days, to include the person with the high grass. Shanklin disagreed and said that is a different category.

Mayor Marley said he felt a workshop setting would be a good way to get this resolved and that the director did not appear to understand exactly what the Council wants to happen, and the Council may not understand what is included in the various codes. Maples said the guidance is if it is weed abatement for tall grass in the front yard and it is hot in July, you are going to get a ticket the first time; if the lumber is stacked under the awning, you are going to get a warning. Tucker said he understood the guidance.

CONSENT AGENDA:

ITEM 8 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

9. Consider the following damage claims recommended for approval and consider passage of resolutions authorizing the City Attorney to file friendly suits for the claims over \$400.00: F. Peter and Bobby J. Garofalo; and Suk Lui Simmons and Hyon Ko. Exhibits: Legal Opinions/Recommendations. (Resolution Nos. 98-50 and 98-51 on file in City Clerks Office)

(Title only) RESOLUTION NO. 98-50

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST F. PETER AND BOBBY J. GAROFALO IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE AMOUNT OF EIGHT HUNDRED FORTY-NINE AND 67/100 DOLLARS (\$849.67).

(Title only) RESOLUTION NO. 98-51

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO ASSIST SUK HUI SIMMONS AND HYON KO IN FILING A FRIENDLY SUIT IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA, AGAINST THE CITY OF LAWTON; AND AUTHORIZING THE CITY ATTORNEY TO CONFESS JUDGMENT THEREIN IN THE TOTAL REDUCED AMOUNT OF TWO THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$2,200.00).

10. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers Compensation case of Verne D. Spelhaug in the Workers Compensation Court, Case No. 97-13347R. Exhibits: Res. No. 98-52.

(Title only) RESOLUTION NO. 98-52

A RESOLUTION RATIFYING THE ACTIONS OF THE CITY ATTORNEY IN MAKING PAYMENT OF THE JUDGMENT IN THE WORKERS COMPENSATION CASE OF VERNE D. SPELHAUG FOR THE AMOUNT OF TWENTY-TWO THOUSAND, FIVE HUNDRED SEVENTY-EIGHT DOLLARS (\$22,578.00) PER ORDER OF THE WORKERS COMPENSATION COURT, AND FILING A FOREIGN JUDGMENT IN THE DISTRICT COURT OF COMANCHE COUNTY FOR PURPOSES OF PLACING SAID JUDGMENT ON THE TAX ROLLS.

11. Consider a resolution authorizing the installation of traffic control devices at specified locations. Exhibits: Resolution No. 98-53; Excerpt, draft Traffic Commission minutes, 3/19/98

(Title only) RESOLUTION NO. 98-53

A RESOLUTION AUTHORIZING THE INSTALLATION AND/OR REMOVAL OF TRAFFIC CONTROL DEVICES AT CERTAIN DESIGNATED LOCATIONS WITHIN THE CITY OF LAWTON. Locations: Install "Yield" signs yielding E/W traffic at the intersection of NW 19th and Dearborn; Install a "No U Turn" sign for southbound Fort Sill Boulevard traffic at Carroll Drive.

12. Consider denying a request for the installation of traffic control devices at the specified location. Exhibits: Excerpt from draft Traffic Commission minutes of 3/19/98. Action: Deny request for Stop or Yield signs at intersection of SW 5th and Washington.

13. Consider adopting a street light resolution to authorize installation and removal of additional street lights in residential areas. Exhibits: Street Light Resolution No. 403. Action: Adopt Street Light Resolution No. 403.

14. Consider adopting a resolution authorizing the Mayor and City Clerk to execute a Utility Relocation Agreement with the Oklahoma Department of Transportation (ODOT) for the U.S. 62 and 281 Highway Project. Exhibits: Res. No. 98-54; Utility Relocation Agreement.

(Title only) RESOLUTION NO. 98-54

A RESOLUTION WHEREBY THE CITY COUNCIL OF LAWTON, OKLAHOMA, AUTHORIZES THE EXECUTION OF A UTILITY RELOCATION AGREEMENT WITH THE OKLAHOMA DEPARTMENT OF TRANSPORTATION OF THE STATE OF OKLAHOMA FOR U.S. HIGHWAY 62 AND 281 PROJECT UNDER PLANS AND SPECIFICATIONS FOR FEDERAL AID PROJECT NO. STP-16B(272) IN ACCORDANCE WITH THE TERMS AND TENOR OF 69 O.S. 1991, SECTIONS 1205, 1206.

15. Consider ratifying the actions of the Mayor and City Clerk executing freeway utility permits with Oklahoma Department of Transportation (ODOT) and authorizing the Mayor and City Clerk to execute an agreement with Oak Tree Properties/Lawton L.L.C. for proposed Walgreens Store utility relocations. Exhibits: Agreement. Action: Ratify the actions of the Mayor and City Clerk executing freeway utility permits with ODOT and authorizing the Mayor and City Clerk to execute an agreement with Oak Tree Properties/Lawton L.L.C. for proposed Walgreens Store utility relocations.

16. Consider adopting a resolution setting the E-911 fee for the period July 1, 1998 through June 30, 1999. Exhibits: Resolution No. 98-55.

(Title only) RESOLUTION NO. 98-55

A RESOLUTION LEVYING AN EMERGENCY TELEPHONE NOTIFICATION FEE, PROVIDING FOR A RATE OF SUCH FEE, AND PROVIDING FOR AN EFFECTIVE DATE. Fee is 5%.

17. Consider adopting a resolution renewing the E911 fee for three fiscal years. Exhibits: Resolution No. 98-56.

(Title only) RESOLUTION NO. 98-56

A RESOLUTION RENEWING THE EMERGENCY TELEPHONE SERVICE FEE FOR THREE ADDITIONAL FISCAL YEARS.

18. Acknowledge receipt of election returns of March 10, 1998. Exhibits: Tabulations. Action: Acknowledge receipt of election returns of March 10, 1998.

19. Consider submitting a grant application to the Corporation for National Community Service (CNCS) for the Retired and Senior Volunteer Program (RSVP) for Fiscal Year 1998-99 funding and authorize the Mayor to accept the grant when approved. Exhibits: None. Action: Authorize submission of an application of CNCS for partial funding of the 1998-99 RSVP in the amount of \$22,319 and authorize the Mayor to execute the grant agreement when approval by CNCS and the State of Oklahoma is received.

20. Consider approving the construction plat and record plat for Allison's Corner and accepting the improvements and escrow agreement in lieu of maintenance bond. Exhibits: Plat Map. Action: Approval of item.
21. Consider accepting a corrective deed and a corrective permanent easement from Doris J. Winkelman, Cheryl Winkelman Hodge and Dan Allen Hodge, Jr. Exhibits: Corrective Deed; Corrective Permanent Easement; Location Map of Prairie Park. Action: Approval of item.
22. Consider extending contract for Thermoplastic Material. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contract with Cataphote to 5/31/99 at same terms.
23. Consider extending contract for Hand Held Radar Units. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contract with Decatur Electronics, Inc. to 5/31/99 at same terms.
24. Consider extending contract for Youth/Adult Trophies and Plaques. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contract with Engraving Smith of Lawton to 6/30/99 at same terms.
25. Consider extending contract for Sewer Rods. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contract with Sewer Equipment of America to 5/31/99 at same terms.
26. Consider extending contract for Bedding Plants. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contract with 4-D Garden Center to 5/31/99 at same terms.
27. Consider extending contract for Adult Softball T-shirts. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contract with T & S Printing to 6/30/99 at same terms.
28. Consider extending contract for Custodial Maintenance Services. Exhibits: Vendors mailing list; Bid tabulation; Recommendation. Action: Extend contracts with J & J Janitorial; Service One Janitorial; and RDC, Inc., d.b.a. Jani-King, to 4/30/99 at same terms, to include previous change orders.
29. Consider approving contract change order of Custodial Maintenance Contract with J & J Janitorial Service to authorize an increase in service level for the CDBG building and fee increase of \$50 resulting from relocation to different building after award of initial contract. Exhibits: Contract Change Order; Department Memorandum. Action: Approve contract change order to increase service level for CDBG offices provided by J & J Janitorial Service and authorize execution of contract change order.
30. Consider terminating contract with Software Source Co. for Windows NT Server 4.0 Software and authorize item to be rebid. Exhibits: Memo, Asst. City Attorney dated 3/24/98; Memo, MIS Supervisor, dated 3/16/98. Action: Terminate contract with Software Source Co. and authorize item to be rebid.
31. Consider awarding a contract for Groundwater Laboratory Analysis. Exhibits: Vendors mailing list; Bid tabulation; Department recommendation. Action: Award contract to Anachem, Inc.
32. Consider awarding contract for Rock Hauling. Exhibits: Vendors mailing list; Bid tabulation; Department recommendation. Action: Award contract to Lawton Transmit Mix, Inc.
33. Mayors Appointments. Exhibits: None.

Pension Trust Commission: Jere Barnhouse, Term: 4/14/98 to 11/1/2000

34. Consider approval of payroll for the period of April 6 through 19, 1998.

Mayor Marley said persons were present to speak regarding Item 8.

MOVED by Shanklin, SECOND by Beller, for approval of the Consent Agenda items as recommended with the exception of Item 8. AYE: Sadler, Purcell, Shanklin, Beller, Green, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

8. Consider the following damage claims recommended for denial: Allstate Insurance Company; Wan Y. and Mun S. Kim; Stanley L. and Cherie Stephens; and William E. and Amy M. Taylor. Exhibits: Legal Opinions/Recommendations.

Mr. Kim said he was involved in an accident with a fire truck last month and the City Attorney recommended denial stating the fire truck had the right of way and emergency vehicles may proceed past a red or stop signal but only after slowing down as may be necessary for safe operation. He said the truck did not slow down but went through the red light. Kim said he was at 38th Street trying to pass Lee Boulevard and he was stopped at the red light; three vehicles were turning left and he was proceeding on the green light when he was hit. He said the fire truck skidded 74.11 feet before hitting Kim which meant he was not slowing down but the report shows Kim did not

yield. Kim said 38th Street is sunk down below Lee Boulevard so if there are several cars stopped waiting for the light to turn red, you will not see anything coming from the east on Lee. He said the truck was skidding so the driver probably saw him crossing. Kim said he could not see or hear the fire truck coming and you cannot yield if you cannot see or hear them. He said the fire truck did not slow down for safe operation and had a minimum of twenty seconds of red light.

Cruz said the legal opinion indicated that if the fire truck had not slowed down that Kims vehicle would probably have sustained heavier damage. He said the law is in favor of the City due to the emergency nature of the vehicle responding, which had the lights and sirens in operation as required by state law. Cruz recommended denial.

Purcell asked Kim if he had his windows up and radio playing. Kim said yes and he did not see or hear the fire truck, and pointed out that Lee Boulevard is sunk down and has a three to four foot wide median and if three or four vehicles are stopped waiting for the red light, you will not see any vehicles coming from that direction. Kim said he understood they were responding to an emergency situation but that was not a reason to excuse damage to his property by trying to prevent damage to someone elses property.

Maples asked the amounts involved. Kim said damage to the vehicle was \$2,913 and that he felt he should be reimbursed for those damages. Beller asked if that was the lowest estimate and Kim said yes, and there were two estimates. Cruz said the total claim was \$5,412 and included not only damages to the vehicle but also pain and suffering. Kim said he would request a minimum reimbursement of the amount of damages to the vehicle.

Shanklin said Mr. Kim has due process in district court if the claim is denied by the City. Kim said he was supposed to fly out this morning for Japan and had to delay because of the meeting, and that he would be on his way to Japan tomorrow morning, had no time to do that, and would not be back for three years.

MOVED by Shanklin, SECOND by Warren, that the Kim claim be denied. AYE: Purcell, Shanklin, Green, Warren, Maples, Williams, Sadler. NAY: Beller. MOTION CARRIED.

Mayor Marley told Mr. Kim he had recourse to go to district court and suggested he speak with one of the legal staff members in the audience.

Stanley Stephens said he called the City to rod his line because his toilets were backed up; crews came and left a note saying his line was rodded and no obstruction was found and to call a licensed plumber. Stephens said he called a plumber, who rodded his line and it still was backed up, so we called on the 13th and they came out and dug up and damaged his back yard and line and found that his line was clear and there were no obstructions in his line; they called the City to see if they would come out and rod the line again and found out the first time they came out, if they would have rodded the line, that the obstruction would have cleared, and secondly, to have rodded the line, they would have had to ask his neighbor to remove his fence to get in the manhole to be able to rod the line and that did not happen, so he was saying the line did not get rodded the first time.

Larry Johnson, Assistant City Attorney, said staff investigated this after the original claim was submitted on January 28, 1998. Claimants are seeking \$900 for replacement of their service line and riser into the sewer main. City records reflect a call was made to rod or check the main on January 10, 1998, and at that time, crews did rod that line, and there are various pieces of equipment used to do that, some of which are smaller than the rod trucks. Johnson said a minor, partial obstruction was found near the area of the claimants riser; a note was left on the door saying no obstruction was found and they should call a private plumber. On January 12, according to the information submitted by the claimant, they had Towers Plumbing come out, they dug out the sewer line and submitted an itemized statement showing \$100 in materials, \$375 for equipment used and \$425 for labor. They indicate they replaced the riser and service line, and a lot of the work they did related to removing and replacing fencing in the area. On January 13, while their plumber was still there, a City crew went back and rodded the line again and found no obstruction whatsoever. Johnson said it is staffs position that there was not an obstruction in the line and it was entirely in the claimants service line; if it was not, the bill was unnecessary; if there was nothing wrong with their line, there was no reason to replace it, and in either event, the City should not pay this bill. Cruz said the partial obstruction that may have been detected earlier may have been an obstruction due to a drop on the riser, which is the responsibility of the property owner.

Shanklin said the plumber did \$900 worth of work and asked why he would let them do that or what did the plumber say to influence him to spend \$900 on his line. Stephens said the dates are wrong; he had no one come out on the 12th and only had the plumber come out on the 10th when the City came out and the next day they came out was the 13th and that was when the City inspector was there also. Stephens said we rodded all the way up to the City line, as far as the rod would go from his end, from the plumber and the area was dug up. Stephens said they found there were only two ways to rod the line, from the neighbors fenced in yard and if you do not remove the fence you cannot get in the manhole to rod the line, that did not happen. Shanklin said they do not have to move the fence to rod the line. Stephens asked how they could get in the line. Shanklin asked if they could get to the manhole and Stephens said the manhole is sitting under the fence. Shanklin asked Johnson to respond and Johnson said he had not heard of that.

MOVED by Shanklin, SECOND by Green, to table this until staff comes back and Council can hear from the department. AYE: Shanklin, Beller, Green, Warren, Maples, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

Mayor Marley said the item would be on the April 28 Council agenda.

MOVED by Williams, SECOND by Maples, to deny the claims of Taylor and Allstate Insurance. AYE: Beller, Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

35. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending civil suit styled David R. Graham vs. The City of Lawton, Case No. CJ-98-229, in the District Court of Comanche County. Exhibits: None.

36. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action against MEGA Insurance, American Specialty Underwriters, and individual employees, and take appropriate action in open session. Exhibits: None.

37. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss pending litigation styled City of Lawton v. Clyde Eddie Barbee and Judy Barbee, Case No. C-83-270, and take appropriate action in open session. Exhibits: None.

38. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the negotiations for an Employment Agreement for FY 1998-99 between the Fire Union, IAFF, Local 1882, and the City of Lawton. Exhibits: None.

39. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the negotiations for a Collective Bargaining Agreement for FY 1998-99 between the Police Union, IUPA, Local 24, and the City of Lawton. Exhibits: None.

MOVED by Williams, SECOND by Maples, to convene in executive session as shown on the agenda and recommended by legal staff. AYE: Green, Warren, Maples, Williams, Sadler, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 8 p.m. and reconvened in regular, open session at approximately 8:50 p.m. with roll call reflecting all members present.

Cruz reported the Mayor and Council met in executive session to discuss the items listed on the agenda. He said no action is needed on Items 35, 37, 38, or 39. Cruz requested authorization in regard to Item 36 to initiate legal action against MEGA, American Specialty Underwriters and anyone else who may be a potential defendant in the lawsuit.

MOVED by Purcell, SECOND by Williams, to authorize the legal staff to initiate legal action against MEGA, American Specialty Underwriters, and anyone else who may be a potential defendant in the lawsuit. AYE: Maples, Williams, Sadler, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Schumpert reminded Council of the tour of the Wackenhut facility on Tuesday, April 21 and transportation will leave City Hall at approximately 2:30 p.m. Beller asked if that would constitute a meeting and Smith said it will be posted.

Purcell said OML is having its annual training session in Oklahoma City on May 7 and 8, and he would like to attend. Green said she would like to attend. The budget meeting originally set for May 7 will be changed to May 6.

Beller said discussion was held earlier about discretion for department heads and there was an instance dealing with extension of a water line and because it was an inch, it could not be extended. He said two business owners were on the same line and they could not extend it because of the language in the ordinance. Beller suggested discretionary powers be given to the head of the water meters or the finance director. He said there are two adjoining businesses and a dispute over the water bill, so they wanted to have meters for each but the line does not meet the requirements of the ordinance. Schumpert said the code is written in that manner because a one inch line is too small to provide the necessary supply so there has to be a standard. Schumpert said the one inch line should not have been allowed to begin with, but they had a one inch line so apparently the City agreed to allow service to both facilities from the line, and now because the owners are having a problem with the users, it has now somehow become an obligation of the City to solve the problem, and that is not proper.

Beller said there are times when common sense should prevail and in his opinion, this is one of those times.

Schumpert said staffs response in this instance would be not to do this. Beller said there are extenuating circumstances in many cases and the people were told they had to dig under the street and do certain things, but if they think they can be accommodated to their satisfaction by a one inch line, that should be satisfactory and the City should not impede them trying to work this out between themselves. Shanklin said if a one inch line is serving them now, a one inch line with two water meters would still do it. Maples asked if the task force had not addressed the issue of allowing variances. Williams said it is not a matter of inches, but a matter of diameter of the pipe rather than the length. Beller said if the users have no problem, it seemed simple to allow the meter to be installed.

Warren said there was a recent item where a person was told he needed a four inch line under the street to do something later on, and the person said he would do a two inch but never hook anything else up to his meter, so that was agreed to. He said if a conclusion is reached two years from now that the person wanted to put two more businesses in, we are back to the argument, but the reason for the decision was based on the fact that there would be no other meters. Warren said it seemed the City did not want to give anything but it had already given a lot. Beller said he felt discretion should be allowed and exercised. Williams said he did not think staff members should be making that kind of call. Beller said officers do it and it was discussed earlier. Williams said it would affect every tenant that rents the building from now on.

Green said the Douglas Elementary School Sixth Grade Class would attend the next Council meeting.

There was no further business to consider and the meeting adjourned at 9 p.m.